

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

MAR 27 2019

Clerk, U S District Court
District Of Montana
Billings

UNITED STATES OF AMERICA,

Cause No. CR 99-48-BLG-SPW

Plaintiff/Respondent,

vs.

ORDER

JAIME MORENO,

Defendant/Movant.

On February 19, 2019, Defendant Jaime Moreno moved the Court to reduce his sentence or authorize his placement outside prison under the FIRST STEP Act.

The FIRST STEP Act makes retroactive certain provisions of the Fair Sentencing Act of 2010. *See* Mot. (Doc. 494) at 3. The Fair Sentencing Act, however, applies only to persons convicted of trafficking in crack cocaine or convicted of simple possession of a controlled substance under 21 U.S.C. § 844.

See Fair Sentencing Act of 2010, Pub. L. No. 111-220, §§ 2, 3 (Aug. 3, 2010).

Moreno was convicted of conspiring to possess methamphetamine with intent to distribute it and sentenced for trafficking in 1.5 to 5 kilograms of methamphetamine. *See* Verdict (Doc. 207) at 1; Presentence Report ¶ 71; Statement of Reasons (Doc. 242-1) at 1; Judgment (Doc. 242) at 1. The Fair Sentencing Act does not apply to Moreno, so neither do the FIRST STEP Act's

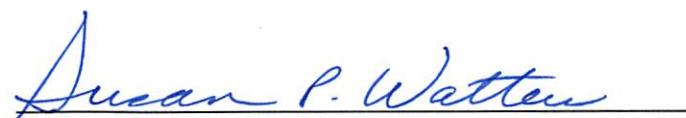
provisions making the Fair Sentencing Act retroactive.

Moreno also refers to the FIRST STEP Act's provisions concerning low-risk prisoners, home confinement, prerelease placement, and supervised release. *See* Mot. at 2–4. The Act entrusts these matters not to sentencing courts but to the Director of the Bureau of Prisons, the Attorney General, the Independent Review Committee, and/or the Secretary of Homeland Security. *See, e.g.*, 18 U.S.C. §§ 3632(d)(4)(C), (E), 3624(c)(2), (g)(3); *Reeb v. Thomas*, 636 F.3d 1224, 1226–29 (9th Cir. 2011).

Contrary to Moreno's claim, *see* Mot. at 4–5, the FIRST STEP Act does not address 18 U.S.C. § 3582(c)(2) or the United States Sentencing Guidelines. Moreno does not present “extraordinary and compelling reasons” warranting a sentence reduction under § 3582(c)(1)(A)(i), he is not 70 years old, *see* Presentence Report at 3; 18 U.S.C. § 3582(c)(1)(A)(ii), and the Court is not aware of any statute or rule that would support reduction of Moreno's sentence under § 3582(c)(1)(B).

Accordingly, IT IS HEREBY ORDERED that Moreno's motion under the FIRST STEP Act (Doc. 494) is DENIED.

DATED this 27th day of March, 2019.



Susan P. Watters
United States District Court